



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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PHOTOFINISHING FOR OUT-OF-STATE CUSTOMERS

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Is photofinishing taxable as a Manufacturing activity?

The taxpayer contended that it is the intent of both the law and published rules to tax this activity only as Retailing or Wholesaling under Rule 140 and not under Rule 136 or elsewhere. Therefore, he feels there should be no business tax assessment upon interstate sales.

The department concluded that the activity of photofinishing may be taxed under the Manufacturing or the Processing for Hire classifications. Rule 140 provides that such activities are taxable under the Retailing or Wholesaling classification of the business and occupation tax, without mention of interstate sales. Thus this rule does not cover such activities. The Foreword to the published Rules cautions that the rules do not cover every taxable situation and that intricate questions should be submitted to the department for determination.

A manufacturer who produces his product locally and then sells to local customers is taxable as a "retailer" in the same fashion as the taxpayer. The same manufacturer selling and delivering his product to out-of-state customers is taxable as either a "manufacturer" or a "processor for hire" depending on who owns the manufactured articles. Under Rule 136, one is a "processor for hire" if he performs labor and mechanical services upon materials belonging to others. He is a "manufacturer" if he performs the labor and mechanical services upon his own materials.

The question whether manufacturing has occurred depends on whether a "new, different, or useful" substance or article has been produced. The department feels that the making of negatives and prints by a photo finisher clearly constitutes the production of "new, different, or useful" articles of tangible personal property. Even if the print does not include the original negative, this is not a

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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requirement for a "manufacturing" activity. The significant facts are that negatives are produced from film furnished by customers and from these negatives, finished photo prints are made which are clearly new, different, and useful articles of tangible personal property.